

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA §
 §
VS. § NO. A-10-CR-297 LY
 §
 §
DAVID ANDREW DIEHL §

**MOTION FOR EXTENSION OF TIME TO FILE MOTIONS
AND INCORPORATED MEMORANDUM OF LAW**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, David Andrew Diehl, the Defendant, by and through his undersigned counsel, and respectfully moves the Court to grant an extension of time for filing pretrial motions in the above entitled action, on the following grounds:

I.

Pre-trial motions are due in this case on July 9, 2010.

Defendant's attorney is requesting an extension of time within which to file pretrial motions in this case. The government has said that they will deliver the affidavit for search warrant on Monday, July 12, 2010. Undersigned counsel needs additional 7 days to supplement our Motion to Suppress Search and Seizure in this case.

II.

Rule 45(b) of the Federal Rules of Criminal Procedure allows the Court to grant an extension for good cause shown. The undersigned counsel is requesting a thirty (7) day extension. WHEREFORE, PREMISES CONSIDERED, Defendant respectfully prays that the Court grant this Motion.

Respectfully submitted,

/s/ Stephen M. Orr
STEPHEN M. ORR
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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of July 2010, a true and correct copy of the foregoing instrument was electronically filed with the Clerk of the Court, using the CM/ECF System which will transmit notification of such filing to all counsel of record.

Matt Devlin
AUSA
816 Congress Ave., Suite 1000
Austin, Texas 78701

/s/ Stephen M. Orr
STEPHEN M. ORR

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
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O R D E R
on Defendant's Motion for Extension of Time
to File Pretrial Motions

Before the Court is Defendant Diehl's Motion for Extension of Time to File Pretrial Motions filed on July 9, 2010. The Court has considered the Motion, and is of the opinion that an extension of the deadline for filing pretrial motions should be Granted. IT IS THEREFORE ORDERED that the deadline for filing pretrial motions is extended to _____, 2010.

Pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A), the Court finds that the ends of justice served by allowing the Defendant additional time for pretrial preparation outweigh the best interest of the public and the Defendant in a speedy trial. The Court's basis for said finding is that the failure to grant such a continuance in this cause would deny counsel for the Defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv). Thus, the Court finds that the time

between the previous pretrial motions deadline and the new pretrial motions deadline is excludable under the Speedy Trial Act, 18 U.S.C. § 3161(h).

SIGNED AND ENTERED this _____ day of _____, 2010.

UNITED STATES DISTRICT JUDGE